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14 **UNITED STATES DISTRICT COURT**

15 **DISTRICT OF NEVADA**

16 TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA, a Connecticut  
17 corporation,

18 Plaintiff,

19 vs.

20 WILLIAMS BROTHER, INC., a Nevada  
corporation; PEEK CONSTRUCTION  
21 COMPANY, a Nevada corporation;  
MICHAEL WILLIAMS, an individual;  
JOSIE WILLIAMS, an individual;  
ASHLEY WILLIAMS, an individual;  
23 MARIA WILLIAMS, an individual;  
MARK GUBLER, an individual; DAWNA  
GUBLER, an individual; DARIN  
24 GUBLER, an individual; and KAREN  
GUBLER, an individual; BRENDA  
COMPTON PEEK, an individual;  
MICHAEL L. PEEK, an individual; ECCL  
HOLDINGS, LLC, a Nevada limited  
liability company; BLC NEVADA TRUST  
DATED APRIL 20, 2006, a Nevada Trust,

25 Case No.: 2:12-cv-00058-LDG -RJJ

26 **NOTICE OF WITHDRAWAL OF  
MOTION TO COMPEL  
PRODUCTION – DOCKET 110**

27  
28 Defendants.

1 WILLIAMS BROTHER, INC., a Nevada  
2 corporation; PEEK CONSTRUCTION  
COMPANY, a Nevada corporation,

3 Counterclaimants,

4 vs.

5 TRAVELERS CASUALTY AND SURETY  
COMPANY OF AMERICA, a Connecticut  
6 corporation,

7 Counterdefendant.

8  
9 Plaintiff TRAVELERS CASUALTY AND SURETY COMPANY OF AMERICA  
10 ("Travelers") hereby withdraws its Motion to Compel (Docket 110) Tanner, LLC  
11 ("Tanner"), Gibbs Trucking, LLC ("Gibbs"), and Ryder Construction, LLC ("Ryder")  
12 (collectively, "Respondents") to comply with a subpoena duces tecum issued and served by  
13 Travelers. The motion was based on boilerplate objections filed by Respondents to  
14 Travelers' subpoena, which objections are not allowed by Rule 45 and unsupported by any  
15 evidence.

16 Recently, counsel for Respondents produced a small amount of documents  
17 responsive to the subpoena. Although Travelers does not believe that all responsive  
18 documents have been produced, Respondents' counsel's representation is that all  
19 responsive documents that exist have been produced. Travelers has scheduled a Rule  
20 30(b)(6) deposition of one of the Respondents the afternoon of October 9, after the  
21 scheduled hearing on the Motion to Compel (currently set for October 19, 2012, at 9:00 a.m.  
22 before Magistrate Judge Robert J. Johnston). After that deposition, Travelers will have a  
23 more clear idea of what documents may exist and whether all responsive documents have,  
24 in fact, been produced.

25 Therefore, Travelers withdraws its motion to compel at this time and asks that the  
26 hearing on that motion (Docket 110) be vacated. If, during the deposition, evidence of  
27 additional documents not produced is discovered, counsel for Travelers will attempt to  
28

1 work with counsel for Respondents to produce those documents. If no additional  
2 responsive documents are discovered, the matter will be resolved.

3 DATED this 8<sup>th</sup> day of October, 2012.

4 JENNINGS, HAUG & CUNNINGHAM, L.L.P.  
5

6 /s/ Chad L. Schexnayder  
7 ELAN S. MIZRAHI, ESQ.  
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15 Attorneys for Plaintiff/Counterdefendant

16 IT IS SO ORDERED. Motion to Compel  
17 [110] is withdrawn from consideration  
18 by the court.  
19 .  
20 .  
21   
22 UNITED STATES MAGISTRATE JUDGE  
23 DATE: OCT. 11, 2012  
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